

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	
)	
Request for Review and Petition for Waiver of a)	471 Application Number 1035346
Decision of the Universal Service Administrator)	(FRN 2817422) (Endeavor Hall) (FY 2015)
of H-Wire Technology Solutions)	
)	

REQUEST FOR REVIEW AND PETITION FOR WAIVER

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Table of Contents

Summary	ii
Background	2
A. FY 2015 FCC Form 470 and Form 471 Applications	2
B. Special Compliance Information Request	2
C. The COMAD	4
Discussion	8
A. There Was No Competitive Bid Violation	9
1. Mere USAC Speculation Does Not Establish a Competitive Bidding Violation	9
2. H-Wire Had No Involvement in the Competitive Bidding Process	12
3. The USAC's Explanation for Denial Was Hollow and Without Factual Basis and Regulatory Infirmities or Violations	13
B. If the Bureau Denies this Request for Review, It Should Direct USAC to Pursue Recovery Solely from the Applicants	14
C. The Bureau Should Waive the 60-Day Filing Deadline for this Request for Review	16
Conclusion	18
Declaration of Jonathan Hagen	19

Summary

H-Wire Technology Solutions (“H-Wire”) was the successful bidder for certain equipment and services for which Endeavor Hall Charter School (“Endeavor Hall” or “Applicant”) obtained support from the Commission’s Schools and Libraries Universal Service Support Mechanism (“E-rate”) for Funding Year (“FY”) 2015. Following a three-year investigation, the Universal Service Administrative Company (“USAC”) rescinded its previous funding commitment, based on an incorrect finding that H-Wire and Endeavor Hall violated the E-rate competitive bidding rules, and denied H-Wire’s appeal. Because no such violation occurred, H-Wire hereby requests that the Wireline Competition Bureau (the “Bureau”) reverse USAC’s decision and direct USAC to reinstate the funding commitment and discontinue recovery actions.

USAC’s decision rests solely on the circumstantial factor that Mr. Lincoln Fillmore held a passive minority financial interest in H-Wire while serving as President of Charter Solutions, which provided administrative and business accounting services to Endeavor Hall under a separate contract unrelated to E-rate. USAC found no evidence that Mr. Fillmore’s passive investment in H-Wire actually impacted or tainted the competitive bid process in any way (because, in fact, it did not).

The Commission has consistently held that USAC must base its decision to deny, rescind, or recover E-rate funds on an applicant-specific investigation that uncovers evidence of actual conduct that violates the Commission’s E-rate rules. Relevant to this case, a finding of an impermissible conflict of interest must rest on evidence that a party actually acted in a dual role for both the applicant and the bidder. Despite thorough investigation, USAC found no such evidence, precisely because H-Wire was not involved in any way in the competitive bidding process. Speculation alone cannot support the denial or rescission of a funding commitment. Indeed, if such speculation were sufficient, then any number of innocuous business or personal relationships

between representatives of applicants and service providers could become grounds for funding denials, destabilizing the entire E-rate mechanism.

USAC's decision appears to be flawed in any event because H-Wire never received the \$51,443.66 that USAC claims to have disbursed in August 2016. In FY 2015, USAC was responsible for disbursing FCC Form 472 BEAR funding to H-Wire, who, in turn, was obligated to pass the money through to Endeavor Hall. After investigating the matter, USAC Finance stated that its records show that it authorized BEAR disbursement in August 2016; however, they have not yet been able to trace any payment made to H-Wire in the amount of \$51,443.66.¹

If the Bureau, contrary to evidence, sees fit to uphold USAC's decision to rescind its funding commitment and seek recovery (and if USAC is able to document that the missing USAC disbursement actually occurred and identify its recipient), then H-Wire requests that the Bureau direct USAC to seek recovery solely from Endeavor Hall. The Commission has made clear that it is the Applicant's responsibility not to surrender control of the competitive bidding process, and H-Wire, in fact, exercised no such control and received no "insider" information. To the extent that the Bureau is unable to trace the "missing" USAC disbursement, H-Wire respectfully requests the Bureau rescind the COMAD, and direct USAC to discontinue this investigation and issue payment, under the original funding commitment.

In addition, H-Wire requests that the Bureau grant a waiver of the 60-day filing deadline for this appeal. H-Wire did not receive timely notice of USAC's denial of its initial appeal of this matter, because USAC mailed the Administrator's Decision on Appeal ("Denial Letter") to an incorrect address, so it never arrived at H-Wire's office. Despite repeated requests to USAC, H-

¹ Exhibit E (e-mail from Sam Clark, Lead Customer Analyst Finance, USAC, to H-Wire, dated November 21, 2019, confirming that it has not been able to find any evidence of disbursement against the FRN at issue.

Wire did not receive a copy of the underlying Appeal Letter until November 13, 2019. H-Wire has prepared and filed this Request for Review as quickly as possible, and certainly within a reasonable time period, after finally receiving a copy of that Appeal Letter.

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Technology Solutions and Petition for Waiver)	
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REQUEST FOR REVIEW AND PETITION FOR WAIVER

Pursuant to sections 54.719 and 54.722 of the Commission’s rules,² H-Wire Technology Solutions (“H-Wire”) respectfully requests that the Wireline Competition Bureau (the “Bureau”) review and reverse the Administrator’s Decision on Appeal of the Schools and Libraries Division (“SLD”) of the Universal Service Administrative Company (“USAC”) in the Funding Year (“FY”) 2015, dated August 1, 2019 (the “Denial Letter”).³ Contrary to USAC’s finding in the Denial Letter, H-Wire had no involvement in the competitive bidding process conducted by the Applicant. H-Wire did not have a relationship with the Applicant or Charter Solutions that would unfairly influence the outcome of a competition or would furnish H-Wire with “inside” information or allow H-Wire to compete unfairly in any way. Furthermore, the only role that H-Wire had in the competitive bidding timeframe and selection of the winning service provider was that of a bidder.

In addition, pursuant to section 1.3 of the Commission’s rules,⁴ H-Wire requests a waiver of the Commission’s 60-day deadline to appeal, because it did not receive the Denial Letter, dated August 1, 2019, until November 13, 2019. When it mailed the Denial Letter, USAC used

² 47 C.F.R. § 54.719(b), (c); 47 CFR § 54.722(a).

³ See Administrator’s Decision on Appeal, FY 2015-2016 (denying H-Wire’s appeal for Endeavor Hall Charter School), dated August 1, 2019, attached as Exhibit A.

⁴ 47 C.F.R. §1.3.

an address with two numbers transposed, and, as a result, the letter did not reach H-Wire or provide the intended notice of the decision. H-Wire is filing this appeal within eight business days of receiving actual notice of the Denial Letter.

Background

A. FY 2015 FCC Form 470 and Form 471 Applications

On February 12, 2015, in the wake of the 2014 *E-Rate Modernization Order*, which expanded funding for Category Two services under the Commission's Schools and Libraries Universal Service Support Mechanism ("E-rate"), Endeavor Hall filed its FCC Form 470 Number 531290001327885 ("Form 470") with USAC. That Form 470 indicated that it was seeking, among other things, internal connections services for FY 2015, and H-Wire submitted a timely bid response. H-Wire has no information with respect to the other bids received because it was not in any other way involved in the competitive bid process. On April 1, 2015, Trudy Jack, Director of Endeavor Hall, notified H-Wire that it had won the bid.

On April 1, 2015, Endeavor Hall filed its FCC Form 471 Application Number 1035346, seeking funding for internal connections services for FRN 2817422. On June 19, 2015, USAC issued a positive FCDL approving Endeavor Hall's 471 Application. Subsequently, H-Wire provided and invoiced for the service, which underwent a PIA review and was approved.

B. Special Compliance Information Request

On July 11, 2016, USAC sent H-Wire a Special Compliance Information Request (the "SCIR").⁵ The SCIR sought information about the relationship between Charter Solutions, a

⁵ Exhibit B, USAC SCIR, dated July 11, 2016.

Charter business management company, and H-Wire. On July 21, 2016, H-Wire responded completely to USAC and the SCIR questions.

In its response, H-Wire explained that Charter Solutions was a silent minority investor owning 11% of the member units in H-Wire.⁶ When USAC inquired as to what steps were taken by H-Wire to mitigate any potential conflict of interest, H-Wire responded that Lincoln Filmore, shareholder of Charter Solutions and passive investor of H-Wire, “was not present or involved in any technology discussion, technology planning, conference, teleconference, bid response strategy at H-Wire at any time for E-Rate funded or non E-Rate business . . . , eliminating any perceived or actual conflict of interest in any and all H-Wire business.”⁷

The SCIR also inquired into the same address of both businesses. Specifically, the SCIR asked:

“B. Please explain why the address 12608 S 125 W Suite C, Draper, UT 84020, as indicated on Charter Solutions website http://www.chartersolutions.org/about_us.html is also listed as an address for H-Wire Technology Solutions in Schools and Libraries Program databases. Do Charter Schools, Inc. and H-Wire Technology Solutions, LLC share office space? Are these institutions one and the same?”

H-Wire responded as follows:

“a. H-Wire sub-leases a completely separate and independent floor of suite C to Charter Solutions.

“b. Do we share office space? No, see response A.

“c. Are the institutions one and the same? No, we are completely separate entities and organizations. H-Wire has no ownership or stake in Charter Solutions.”⁸

Finally, the SCIR asked:

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

“E. Please indicate if Lincoln Fillmore is compensated in any way by H-Wire Technology Solutions, LLC.”

H-Wire responded as follows:

“a. Lincoln Fillmore is not employed by H-Wire. Lincoln receives no compensation for any services and provides no services to H-Wire. His only association is as a member of the LLC and receives a small (11%) portion of distributions.”⁹

Following H-Wire’s submission of these responses, years passed, during which time USAC funding was frozen. Despite repeated efforts by H-Wire to break the impasse, USAC remained silent for more than two years, until FY 2018, when H-Wire received an undated notice from USAC that it intended to rescind all funding to certain FRNs. The notice did not address any of H-Wire’s previous responses or create any nexus between H-Wire and Endeavor Hall’s competitive bid process, because none existed.

H-Wire responded to the USAC notice through counsel (“Counsel’s Letter”) on August 2, 2018. Counsel’s Letter provided further factual details as to why no conflict of interest existed between H-Wire and Charter Solutions; pointed out that, despite years of investigation, USAC had documented no involvement by H-Wire or either Lincoln Fillmore or Charter Solutions in the E-rate competitive bidding process and that no such involvement exists; and highlighted several factual errors contained in the USAC notice. USAC did not respond to Counsel’s Letter.

C. The COMAD

On January 11, 2019, USAC issued a COMAD for FCC Form 471 and sought recovery in the amount of \$51,443.66. The Funding Commitment Adjustment Explanation follows:

"After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. Charter Solutions is determined to be associated with the service provider H-Wire Technology Solutions for the FRN(s). Specifically, the President of Charter Solutions, Lincoln Fillmore, maintains a minority interest in H-Wire Technology Solutions. Additionally,

⁹ *Id.*

Charter Solutions and H-Wire Technology Solutions are physically located in the same building. FCC rules require applicants to submit a [sic] FCC Form 470 to initiate the competitive bidding process and to conduct a fair and open process. Neither the applicant nor any individual or organization working on the applicant's behalf should have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition or would furnish the service provider with 'inside' information or allow it to unfairly compete in any way. Since H-Wire Technology Solutions has engaged in an improper relationship with Charter Solutions and its president, which represents a conflict of interest and compromises the competitive bidding process, the commitment has been rescinded in full and USAC will seek recovery of any improperly disbursed funds from the service provider.”

After a thorough investigation, the applicant failed to produce at the request of the Administrator documentation pertaining to its competitive bidding process for FRN 2817422. FCC rules require schools and libraries as well as service providers to retain all documents related to the application for, receipt, and delivery of discounted telecommunications and other supported services for at least (ten) years after the last day of service delivered in a particular Funding Year and to produce such records upon a request of an auditor or other authorized representative. FCC rules further provide that a non-compliance with the FCCs record keeping and auditing rules by failure to retain records or to make available required documentation is a rule violation that warrants recovery of any disbursed funds for the time period for which the information/documentation is being sought. Since you failed to produce the above specified documentation upon request of an authorized representative/ an auditor, you violated program rules. FCCs rules require a fair and open competitive bidding process free from conflicts of interest. Under the Commission’s rules, a service provider may not participate in the bidding process. The FCCs rules require the applicant to take the initiative and responsibility for determining its needs as set forth on an FCC Form 470 and/or a Request for Proposal. Since you failed to respond, we are unable to ensure you were program compliant. As a result, your funding commitment has been rescinded in full and USAC will seek recovery of the \$51,443.66 of improperly disbursed funds from the applicant.”¹⁰

On March 8, 2019, H-Wire appealed the COMAD Letter.¹¹ In its USAC COMAD Appeal, H-Wire again denied that any conflict of interest existed that in any way affected the competitive bid process or directed any favoritism or otherwise toward H-Wire. Further, to the extent that USAC believes that such conflict existed to taint the competitive bid process, it would

¹⁰ Exhibit C, H-Wire USAC COMAD Appeal, dated March 8, 2019.

¹¹ *Id.*

need to look to Endeavor Hall, because H-Wire had no window whatsoever into the competitive bid process, the bids submitted, and any resulting scoring and decision to award the contract to H-Wire. It simply was not privy to such information.

H-Wire also pointed out the discrepancies in the COMAD Letter that sought recovery from both the service provider and applicant in one part of the COMAD and only from the service provider in another part of the COMAD, despite the fact that the applicant has control over the competitive bidding process.¹²

D. USAC Denial Letters

More than three years after the date of the original USAC inquiry to H-Wire, USAC issued a First Demand Payment Letter to H-Wire, dated October 3, 2019, which was received by H-Wire on October 8, 2019. Perplexed that it had not yet received any decision on appeal, H-Wire immediately reached out to USAC on October 9, 2019 and received a response from Yvie Mondenge of USAC on October 14, 2019, stating that USAC had denied the appeals, but failing to provide copies; therefore, on that same date, H-Wire again requested a copy of the appeal. H-Wire again requested copies of the denial letters on October 15, 2019, and October 22, 2019, respectively. Having received no further response from USAC, on November 8, 2019, the undersigned counsel contacted USAC and requested to be sent copies of the USAC denials that had been referenced in the previous e-mails in order to file an appeal. On November 11, 2019, Ms. Mondenge of USAC contacted H-Wire and requested that they open a case in EPC to receive copies of the letters. On that same date, Ms. Mondenge sent undersigned counsel an e-mail stating only that the appeals had been denied, but failed to respond to the request for copies of the USAC

¹² *Id.* On page 1 of Exhibit 1 of the USAC COMAD Appeal, USAC identifies the service provider as the party to recover from. However, on pages 4 and 5, USAC identifies both the applicant and service provider.

denial letters. Later in the afternoon on that same date, Ms. Mondenge reached out again to H-Wire and requested verification of the address. It was during this phone call that it emerged for the first time that the appeal letters had been sent to the wrong address, with the digits of H-Wire's street address transposed from 12608 (correct) to 12068 (incorrect).¹³ USAC used the address provided on the appeal letter instead of the address in USAC's databases. Ms. Mondenge informed H-Wire that she would have to consult with management to determine whether she could release the FY 2015 USAC Denial Letter by e-mail. Finally, on November 13, 2019, H-Wire received the Denial Letter at issue in this appeal by e-mail.

Upon receipt of the Administrator's Decision Letter on Appeal, it became apparent that USAC had issued the Denial Letter on August 1, 2019. In the Denial Letter, USAC denied H-Wire's COMAD Appeal, but failed even to indicate whether it had reviewed any information or arguments that H-Wire presented on appeal. Instead, the Denial Letter merely repeated a portion of the explanation from the original denial, leaving the basis for its decision *less clear* than it originally was:

Your appeal is denied. It has been determined that Charter Solutions, is associated with the service provider H-Wire Technology Solutions for the FRN(s). [sic] Specifically, the President of Charter Solutions, Lincoln Fillmore, maintains a minority interest in H-Wire Technology Solutions.

Additionally, Charter Solutions and H-Wire Technology Solutions are physically located in the same building. FCC rules require applicants to submit a FCC Form 470 to initiate the competitive bidding process and to conduct a fair and open process. Neither the applicant nor any individual or organization working on the applicant's behalf should have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition or would furnish the service provider with "inside" information or allow it to unfairly compete in any way.

¹³ The error occurred because the street address number had previously been transposed on the Appeal Letter to USAC. Nevertheless, the correct address remained in the USAC's system, because H-Wire received the properly addressed First Demand Payment Letter thereafter. USAC should only send correspondence to a service provider on the address that appears on its respective FCC Form 498.

USAC's Denial Letter didn't even provide a perfunctory denial reason, such as "[o]n appeal, you have not demonstrated that USAC's determination was incorrect."¹⁴ USAC provided no further basis or explanation and failed to acknowledge that additional information was provided, reviewed, and considered.

Discussion

USAC's denial of the Applicant's funding commitment is based on an assertion that H-Wire Technology Solutions has engaged in an improper relationship with Charter Solutions and its president, which represents a conflict of interest and compromises the competitive bidding process.¹⁵ This conclusion, in turn, rests on USAC's findings that (1) Lincoln Fillmore was the President of Charter Solutions and also a passive minority investor in H-Wire; and (2) the offices of Charter Solutions and H-Wire were "physically located in the same building."¹⁶

¹⁴ USAC's failure to indicate any reasoning for its denial of the COMAD Appeal is particularly concerning now that the Bureau itself disposes of most E-rate appeals using streamlined procedures that offer little to illuminate the Bureau's reasoning. Such perfunctory review has reduced many of USAC appeals to an exercise in futility, and does little to relieve the burden on applicants or the Commission of conducting *de novo* review at the Bureau or Commission level. Moreover, for the Commission to continue to refine and extend its body of E-rate "common law" decisions on funding appeals in predictable and transparent ways, it is essential that USAC and the Bureau clearly explain the reasoning behind their decisions, rather than leaving applicants and service providers, present and future, to speculate as to what particular facts or arguments they found dispositive in individual cases. *See Schools and Libraries Universal Service Support Mechanism, Application for Review of a Decision of the Wireline Competition Bureau by Pribilof School District, St. Paul Island, Alaska*, CC Docket No. 02-6, Order, FCC 18-118 (rel. Aug. 8, 2018), Statement of Commissioner Michael O'Rielly ("I recommend that the Commission take the next available opportunity to codify a rule that any funding decision be communicated by letter and distributed directly to the applicant's designated contact(s), preferably by electronic means. Moreover, such decisions should contain a clear statement of each basis for the decision, including citations to any relevant statutory provision or Commission rule, order, or policy. These simple steps could provide even greater clarity and certainty for participants and would improve transparency and accountability for the programs overall. Applicants and the American people deserve no less.").

¹⁵ Denial Letter at 1-2.

¹⁶ *Id.*

While these two statements are factually correct, they do not, without more, establish a competitive bidding violation. Indeed, years of USAC investigation have failed to identify any evidence that FY 2015 competitive bidding process was not “fair and open,” as required under Section 54.503(a) of the Commission’s rules. The Commission has long disallowed mere USAC speculation that a competitive bidding violation may have occurred somewhere, somehow, as a basis for denial or rescission of E-rate funding. Because no conflict of interest in fact tainted the E-rate competitive bidding process conducted by the Applicants, H-Wire requests that the Bureau reverse the USAC Denial Letter and reinstate the funding previously committed.

A. There Was No Competitive Bid Violation

1. Mere USAC Speculation Does Not Establish a Competitive Bidding Violation

Since the inception of E-rate, the Commission has placed competitive bidding at the heart of its funding mechanism,¹⁷ and has placed the responsibility with the Applicant to conduct the competitive bidding process in a manner that complies with the applicable Commission rules, including the requirement that the process is “fair and open.”¹⁸ The hallmark of such a fair and open competitive bidding process, as articulated by the Commission, is the overarching principle that “all potential bidders and service providers must have access to the same information and must be treated in the same manner throughout the procurement process.”¹⁹ The Commission

¹⁷ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, FCC 97-157, 12 FCC Rcd 8776 (1997) (“Universal Service Order”), at ¶ 30, *aff’d in part, rev’d in part, remanded in part sub nom. Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999) (finding that, “fiscal responsibility compels us to require schools and libraries to seek competitive bids for all services eligible for section 254(h) discounts” because “[c]ompetitive bidding is the most efficient means for ensuring that schools and libraries are informed about all of the choices available to them”).

¹⁸ 47 C.F.R. § 54.503(a).

¹⁹ *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Sixth Report and Order, FCC 10-175, 25 FCC Rcd 18762 ¶ 86 and fn. 249 (2010) (“*E-rate Sixth Report and Order*”).

also recognized that there is no violation of the competitive bidding rules just because the applicant has an established relationship with a vendor that already serves the applicant.²⁰

The Commission's rules articulate a representative list of behaviors that "would not result in a fair and open competitive bidding process," as follows:

- The applicant for supported services has a relationship with a service provider that would unfairly influence the outcome of a competition or would furnish the service provider with inside information;
- Someone other than the applicant or an authorized representative of the applicant prepares, signs, and submits the FCC Form 470 and certification;
- A service provider representative is listed as the FCC Form 470 contact person and allows that service provider to participate in the competitive bidding process;
- The service provider prepares the applicant's FCC Form 470 or participates in the bid evaluation or vendor selection process in any way;
- The applicant turns over to a service provider the responsibility for ensuring a fair and open competitive bidding process;
- An applicant employee with a role in the service provider selection process also has an ownership interest in the service provider seeking to participate in the competitive bidding process; and
- The applicant's FCC Form 470 does not describe the supported services with sufficient specificity to enable interested service providers to submit responsive bids.²¹

These factors spring from, among other sources, the Commission's *MasterMind* decision, which found that the applicant violates the Commission's competitive bidding requirements "when it surrenders control of the bidding process to a service provider that participates in that bidding process."²² Whether the competitive bidding process is fair and open, therefore, is a factual inquiry into whether a service provider *actually obtained* confidential "inside"

²⁰ *Id.* at fn. 249 (clarifying that an existing relationship between an applicant and its existing service provider does not violate the rule that the competitive bidding process remains fair and open).

²¹ 47 C.F.R. §54.503(a) note.

²² *Federal-State Joint Board on Universal Service, Request for Review of Decisions of the Universal Service Administrator by MasterMind Internet Services, Inc.*, CC Docket No. 96-45, FCC 00-167, 16 FCC Rcd 4028 (2000) ("*MasterMind Order*"), at ¶ 10.

information or an improper level of control so as to render the competitive bidding process not, in fact, fair and open. Circumstances that suggest the theoretical possibility that a bidder could hypothetically have obtained an unfair competitive advantage may properly prompt USAC to ask questions, issue information requests, or conduct audits, but denial or rescission of funding must be based on a finding that the competitive bidding rules were actually violated supported by an “applicant-specific evaluation,” not circumstantial evidence.²³

Thus, for example, the Bureau found a competitive bidding violation in *Send Technologies* where a minority (15 percent) owner of the selected service provider also actually served as the contact person listed on the Form 470.²⁴ Conversely, the Bureau found no competitive bidding violation where the actual “communications at issue . . . did not impede the fair and open nature of [the Applicant’s] competitive bidding processes”²⁵ and “USAC [did] not point to the specific communications that it found were not in compliance with applicable rules and regulations.”²⁶

The Commission requires evidence of actual impermissible conduct for a good reason. If theoretical speculation on how “inside” information or influence could hypothetically have

²³ See *Schools and Libraries Universal Service Support Mechanism, Request for Review of the Decision of the Universal Service Administrator by Academy of Careers and Technologies, San Antonio, TX*, CC Docket No. 02-6, Order, FCC 06-55, 21 FCC Rcd 5348 (2006) (“*Academy of Careers Order*”), at ¶ 6 (“The “pattern analysis” procedure may be helpful to identify applications for further review to determine if the applicant violated our competitive bidding rules; however, the mere presence of similar language in Form 470s by different program participants ultimately selecting the same service provider is not sufficient evidence of a rule violation.”).

²⁴ *Schools and Libraries Universal Service Support Mechanism, Requests for Review of the Decision of the Universal Service Administrator by Send Technologies, LLC*, CC Docket No. 02-6, DA 07-1270, 22 FCC Rcd 4950 (Wir. Comp. Bur. 2007), at ¶ 6.

²⁵ *Schools and Libraries Universal Service Support Mechanism, Requests for Review of Decisions of the Universal Service Administrator by Trillion Partners, Inc., Austin, Texas*, CC Docket No. 02-6, DA 12-605, 27 FCC Rcd 4088 (Wir. Comp. Bur. 2012), at ¶ 1.

²⁶ *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Letter of Appeal of Trillion Partners, Inc. (filed. Mar. 11, 2011), at 1.

traveled from the Applicant to the service provider were sufficient, USAC would have difficulty ever reaching certainty that any competitive bidding process was fair and open. Evidence that an applicant or its consultant, on the one hand, and service provider representatives, on the other, shared personal friendships; had common hobbies, church or club memberships, or other social relationships; ate at the same restaurant; lived in the same neighborhood; or crossed paths in a myriad of other innocuous factual circumstances would suddenly loom large as possible avenues of taint.

2. H-Wire Had No Involvement in the Competitive Bidding Process

In this case, contrary to the speculation of USAC, no competitive bidding violation occurred. There was no conflict of interest, and the parties scrupulously observed the Commission's rules, ensuring that its competitive bidding process remained fair and open. At no time did H-Wire have any responsibility for the E-rate competitive bidding process.²⁷ Indeed, as was also reflected in the Counsel's Letter, Charter Solutions played no role whatsoever in Applicants' technology program or decision-making at all. Rather, the services Charter Solutions provided to Applicants were, in fact, limited to administrative and financial accounting support.

After literally years of investigation, USAC has identified no communications between any of these parties that would create an actual conflict of interest or competitive advantage for H-Wire. It should thus be clear that those measures were effective. The competitive bidding process remained fair and open and was not tainted in any way.

²⁷ Thus, this case is fundamentally different from *Send Technologies* because, while Lincoln Fillmore had a small, passive minority interest in the service provider, H-Wire, he was not a school employee and did not serve as the Form 470 contact person.

3. The USAC's Explanation for Denial Was Hollow and Without Factual Basis and Regulatory Infirmities or Violations

The USAC Denial utterly fails to consider the carefully circumscribed role that Charter Solutions and Lincoln Fillmore actually filled for the Applicants. As a result, the two findings of fact articulated in the USAC Denials fall far short of establishing any way in which H-Wire actually obtained “insider” information or other competitive advantage that would taint Applicants’ competitive bidding process.

First, a competitive bidding violation cannot arise from the mere fact that Lincoln Fillmore held a passive minority investment in H-Wire while Charter Solutions provided administrative and financial accounting services to Applicants. Under Section 54.503(a) and Commission precedent, the conflict of interest arises when an individual or entity actually fills a dual role by acting on behalf of both the Applicant and a service provider bidder.²⁸ Neither of USAC's reasons establishes such a role, because it did not exist.

Second, for similar reasons, the fact that Charter Solutions and H-Wire both had office space in the same building is irrelevant. As H-Wire explained in response to the SCIR, the two firms’ offices were located on different floors and were entirely separate from one another.²⁹ Each space could be secured independently of the other. There is no greater chance that those offices could be used as a forum for collusion than there would be if the offices had been located in different buildings.

Moreover, no such collusion could arise in any event because H-Wire was not involved in any way with the Applicant's competitive bidding process. After three years of investigation,

²⁸ See *Schools and Libraries Universal Service Support Mechanism, Requests for Review of Decisions of the Universal Service Administrator by Greeley Public School District, Greeley, NE, et. al.*, CC Docket No. 02-6, Order, DA 13-772, 28 FCC Rcd 6898 (Wir. Comp. Bur. 2013), at ¶ 4.

²⁹ Exhibit B.

USAC failed to discover any evidence that H-Wire and Charter Solutions shared “insider” information on the Applicants’ competitive bidding process, precisely because no such collusive sharing occurred or could have occurred.

B. If the Bureau Denies this Request for Review, It Should Direct USAC to Pursue Recovery Solely from the Applicants

The COMAD seek recovery from H-Wire and the Applicant jointly.³⁰ The Commission has been clear, however, that USAC should seek recovery in this case from the Applicant, barring any evidence of service provider involvement.

In creating the COMAD process, the Commission directed USAC, in pursuing recovery, to “make the determination, in the first instance, to whom recovery should be directed in individual cases.”³¹ In doing so, the Commission directed USAC to consider factors including which party was in a better position to prevent the statutory or rule violation, and which party committed the act or omission that forms the basis for the statutory or rule violation.³²

It is far from clear how USAC arrived at its assessment of culpability in this case. The Appeal Denial formulates the requirement as one. As discussed above, USAC failed to identify any evidence of an actual violation of the rule it seeks to enforce. Thus, the funding commitment should be restored, and neither Applicants nor H-Wire should be liable for the recovery of any E-rate funds.

If the Bureau were to disagree, and, therefore, deny this Request for Review, it should direct USAC to pursue recovery solely against the Applicants. The Commission’s rules and

³⁰ Compare Exhibit A, at 6, and Exhibit H, at Exh. 1.

³¹ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order on Reconsideration and Fourth Report and Order, FCC 04-181, 19 FCC Rcd 15252 (2004) (“*Fourth Report and Order*”), at ¶ 15.

³² *Id.*

precedents give the Applicant primary responsibility for conducting a fair and open competitive bidding process.³³ As described in the *MasterMind Order*, a violation occurs when the Applicant improperly surrenders control of the competitive bidding process.³⁴ There is otherwise no opportunity for the service provider to seize such control. Similarly, in the Appeal Denial, USAC itself formulates the rule as one where the burden is on the applicant, stating that, “Neither the applicant nor any individual or organization working on the applicant’s behalf should have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition or would furnish the service provider with ‘inside’ information or allow it to unfairly compete in any way.”

Recovery solely from the Applicant is particularly apt here. To the extent that the Bureau finds a violation occurred simply because the Applicants failed to put sufficient safeguards in place to protect against the risk of a competitive violation, even though no such violation in fact occurred, then that responsibility again should lie solely with the Applicant. Lincoln Fillmore’s interest in H-Wire was a matter of public record; Endeavor Hall and its consultant, Charter Solutions, bore the burden of safeguarding the competitive bidding process. H-Wire, on the other hand, had no investment or other relationship to Charter Solutions that would have entitled it to information on the scope of Charter Solutions’ business and, therefore, no way to know of the existence or scope of the relationship to the Applicant. Alternatively, to the extent that the Bureau is unable to confirm that the missing USAC disbursement was every paid, H-Wire

³³ 47 C.F.R. § 54.503(b) (Unless under an exception, “an *eligible school, library, or consortium* that includes an eligible school or library shall seek competitive bids, pursuant to the requirements established in this subpart,” including the requirement under 47 C.F.R. § 54.503(a) for the process to be “fair and open”)

³⁴ *MasterMind Order* at ¶ 10 (finding that “an *applicant* violates the Commission’s competitive bidding requirements when it surrenders control of the bidding process to a service provider that participates in that bidding process”) (italics added for emphasis).

respectfully requests the Bureau rescind the COMAD in full and direct USAC to issue payment on the original commitment.

C. The Bureau Should Waive the 60-Day Filing Deadline for this Request for Review

Because H-Wire did not receive notice of USAC's issuance of the denial letter until November 13, 2019, and because this appeal is being filed promptly after H-Wire did receive notice, H-Wire hereby requests a waiver of that filing deadline. The Commission may waive its rules for "good cause shown."³⁵ More specifically, the Commission may exercise its discretion to waive a rule where special circumstances warrant a deviation from the general rule and such deviation would serve the public interest, or where the particular facts make strict compliance inconsistent with the public interest.³⁶ In making this analysis, the Commission may take into account consideration of hardship, equity, or more effective implementation of overall policy on an individual basis.³⁷ This request for waiver meets that standard.

The Bureau has held that waiver of the Section 54.720 filing deadlines is warranted where the petitioner did not receive actual notice of USAC's adverse decision but filed its appeal within a reasonable period of time after receiving such notice.³⁸ That is precisely the case here. The

³⁵ 47 C.F.R. § 1.3.

³⁶ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F.2d 1153, 1157, (D.C. Cir. 1969), *affirmed by WAIT Radio v. FCC*, 459 F.2d 1203 (D.C. Cir. 1972).

³⁷ *WAIT Radio*, 418 F.2d at 1159; *Northeast Cellular*, 897 F.2d at 1166.

³⁸ *Requests for Review and/or Waiver of Decisions of the Universal Service Administrator by ABC Unified School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, DA 11-1332, 26 FCC Rcd 11019 (Wir. Comp. Bur. 2011) at ¶ 2 ("*ABC Unified Order*"); *see also Requests for Waiver and Review of the Decisions of the Universal Service Administrator by Acorn Public Library, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-637819, *et al.*, CC Docket No. 02-6, Order, DA 08-2376, 23 FCC Rcd 15474 (Wireline Comp. Bur. 2008), at ¶ 5 ("*Acorn Public Library Order*") (granting waiver of FCC Form 471 filing deadline where the filing was made within 14 days of the due date).

Denial Letter plainly states an incorrect mailing address for H-Wire. Thus, when USAC mailed its decision, as was required in FY 2015, it did not reach its intended destination. Not until many weeks later, did the First Demand Payment Letter prompt H-Wire to contact USAC to ask about the status of its appeal, which H-Wire then believed was still pending. And, only after a further five weeks did the USAC SLD staff finally provide a copy, so that H-Wire could learn the basis for USAC's decision (such as it was) and evaluate its options for appeal.³⁹

In addition, despite other USAC appeals filed by H-Wire with the transposed number in the address, USAC properly addressed and promptly delivered RFCDLs. It appears clear that instead of relying upon the information in the USAC SPIN database, USAC personnel handling the response to the appeal, did not use that database.

USAC's error in addressing the Denial Letter should not be permitted to foreclose H-Wire's opportunity for appeal, particularly in this case where the Denial Letter ultimately fails to demonstrate that USAC actually considered the merits of H-Wire's previous appeal or otherwise engaged with the issues it raised. In such a case, it is only through a further request for review of this matter by the Bureau that H-Wire may obtain relief.

³⁹ Exhibit D (setting forth the exchange of e-mails over five weeks to obtain copies of USAC's Denial Letter to be able to file the instant appeal).

Conclusion

For the foregoing reasons, the Bureau should rescind the COMAD issued by USAC for Funding Year 2015 and direct USAC to discontinue its efforts to recover the associated funding. Should the Bureau uphold any of the COMADs at issue in this Request for Review, it should direct USAC to pursue recovery against the Applicant, who was in full control of the competitive bidding process.

Respectfully submitted,



Cynthia B. Schultz
BROADBAND LAW GROUP, PLLC
1050 Connecticut Avenue, NW, Suite 500
Washington, D.C. 20036
(202) 261-6550
cschultz@broadbandlawgroup.com

Counsel for H-Wire Technology Solutions

Jonathan Hagen
Managing Partner
H-WIRE TECHNOLOGY SOLUTIONS
12608 S 125 W, Suite C
Draper, Utah 84020
jon@h-wire.com

Declaration of Jonathan Hagen

I, Jonathan Hagen, make the following declaration in support of the foregoing “Request of H-Wire Technology Solutions for Review of a Decision of the Universal Service Administrative Company” (“Request for Review”).

I am Managing Partner of H-Wire Technology Solutions (“H-Wire”), a position I have held since January 1, 2011, and covering the entire time period relevant to this Request for Review and Petition for Waiver. In that role, I supervised the preparation and submission of the H-Wire response to Funding Year 2015 Form 470 No 531290001327885 posted by Endeavor Hall Charter School to seek E-rate support for Internal Connections equipment and services.

To the best of my information, knowledge, and belief:

1. The factual representations made in the Request for Review are true and complete.
2. At no time during the FY 2015 competitive bidding process did H-Wire receive “inside” information about the Applicant’s technology needs or vendor selection process, nor did H-Wire seek or obtain the ability to exert any control over Applicant’s conduct of the competitive bidding or vendor selection processes.
3. In particular, neither I nor any owner, employee, or other representative of H-Wire had any involvement in the competitive bid process.
4. Pursuant to the BEAR Disbursement, on August 17, 2016, I received a BEAR Notification Letter that stated that \$51,443.66 was approved and that payment would be mailed within 20 days of the date of the letter.
 - a. H-Wire received disbursements through electronic remittance and not by mail.
 - b. H-Wire’s records do not show receipt of a BEAR Disbursement for the FRN at issue in the amount of \$51,443.66 or partial payment of that amount.

5. On November 18, 2019, I had a phone conversation, as a follow-up to my November 8, 2019 e-mail to USAC Finance requesting documentation that showed that USAC made the disbursement. I was told by the USAC Finance employee by the name of Domain (sp?) that USAC searched its accounts and shows no record of any such disbursement in that amount to H-Wire between August 1, 2016, and September 30, 2016. I was then transferred to Client Service Bureau and was told that the applicant would have to open a case.
6. On November 20, 2019, I had approximately a one-hour conversation with Sam Clark, Lead Customer Analyst of Finance, who connected the disbursements team. Mr. Clark again confirmed that between February 2016 and February 2017, USAC does not show that there was any payment made to H-Wire in the amount of \$51,443.66.
7. On November 21, 2019, Mr. Clark sent me an e-mail stating that he was not able to find any documentation evidencing that USAC paid \$51,443.66 for the FRN at issue; rather, he explained that the only thing he could find was information showing that it had not been paid. See Exhibit E.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed November 22, 2019


Jonathan Hagen

EXHIBIT A

Jonathan Hagen
H-Wire Technology Solutions
12068 S. 125, W Suite C
Draper, UT 84020

Billed Entity Number: 16065886
Form 471 Application Number: 1035346
Form 486 Application Number:



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2015-2016

August 01, 2019

Jonathan Hagen
H-Wire Technology Solutions
12068 S. 125, W Suite C
Draper, UT 84020

Re: Applicant Name: ENDEAVOR HALL
Billed Entity Number: 16065886
Form 471 Application Number: 1035346
Funding Request Number(s): 2817422
Your Correspondence Dated: March 08, 2019

After review of the information and documentation provided, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's decision to adjust the funding commitment amount for the FCC Form 471 Application and funding request number(s) (FRN(s)) referenced above. This letter provides an explanation for USAC's decision. The date of this letter also begins the sixty (60) day time period for appealing this decision. If your Letter of Appeal included more than one FCC Form 471 Application Number, please note that you will receive a separate decision for each funding application.

Funding Request Number(s): 2817422
Decision on Appeal: **Denied**
Explanation:

- Your appeal is denied. It has been determined that Charter Solutions, is associated with the service provider H-Wire Technology Solutions for the FRN(s),. Specifically, the President of Charter Solutions, Lincoln Fillmore maintains a minority interest in H-Wire Technology Solutions. Additionally, Charter Solutions and H-Wire Technology Solutions are physically located in the same building. FCC rules require applicants to submit a FCC Form 470 to initiate the competitive bidding process and to conduct a fair and open process. Neither the applicant nor any individual or organization working on the applicant's behalf should have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition or would furnish the service provider with "inside" information or allow it to unfairly compete in any way.

Since your appeal was denied in full, dismissed or cancelled, you can appeal a decision in this letter within 60 calendar days of the date of this letter. Failure to meet this deadline will result in an automatic dismissal of your appeal.

Note: You must submit your appeal to the FCC and not to USAC.

To appeal USAC's appeal decision, please submit it to the FCC in proceeding number CC Docket No. 02-6 using the Electronic Comment Filing System (ECFS). Include your contact information, statement that your filing is an appeal, identifying information, a full description of the facts and the relief sought, and any supporting documentation. To appeal USAC's appeal decision, please submit it to the FCC in proceeding number CC Docket No. 02-6 using the Electronic Comment Filing System (ECFS). Include your contact information, statement that your filing is an appeal, identifying information, a full description of the facts and the relief sought, and any supporting documentation.

For appeals to the FCC, be sure to keep a copy of your entire appeal, including any correspondence and documentation, and provide a copy to the affected service provider(s).

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

cc: Tracey Marz

EXHIBIT B

Schools and Libraries Division



FY 2015 E-rate Application Information Request

7/11/2016

Jonathan Hagen
H-Wire Technology Solutions SPIN 143036050
Phone: 801-301-3468
E-mail: jon@h-wire.com

Response Due Date: 7/26/2016

Dear Service Provider:

USAC has evidence that Lincoln Fillmore is the President of Charter Solutions/Charter Schools, Inc., and has an association with (i.e. a financial interest with), and/or is an employee of, H-Wire Technology Solutions, LLC (SPIN 143036050). Schools and Libraries Program records show that schools that are members of Charter Schools, Inc. have H-Wire Technology Solutions, LLC as a service provider for E-rate funding requests, creating a potential conflict of interest. As the program administrator, we are obligated to follow up to ensure program compliance. To help us better understanding the situation, please address the following:

- A. Please explain how the potential conflict of interest of Lincoln Fillmore's as the President of Charter Solutions/Charter Schools, Inc., while also associated with, and/or employed by H-Wire Technology Solutions, was mitigated for each of the schools under the Charter Schools, Inc. umbrella who use H-Wire Technology Solutions, LLC as a service provider in the Schools and Libraries Program..
 - a. H-Wire is aware that Lincoln Fillmore is a member of H-Wire and shareholder of Charter Solutions and took proactive steps to mitigate any perceived or actual conflict. To that end, Lincoln Fillmore was not present or involved in any technology discussion, technology planning, conference, teleconference, bid response strategy at H-Wire at any time for E-Rate funded or non E-Rate business. Thus eliminating any perceived or actual conflict of interest in any and all H-Wire business.
- B. Please explain why the address 12608 S 125 W Suite C, Draper, UT 84020, as indicated on Charter Solutions website http://www.chartersolutions.org/about_us.html, is also listed as an address for H-Wire Technology Solutions in Schools and Libraries Program databases. Do Charter Schools, Inc. and H-Wire Technology Solutions, LLC share office space? Are these institutions one and the same?
 - a. H-Wire sub-leases a completely separate and independent floor of suite C to Charter Solutions.
 - b. Do we share office space? No, see response A.
 - c. Are the institutions one and the same? No, we are completely separate entities and organizations. H-Wire has no ownership or stake in Charter Solutions.

Response due: 7/26/2016

- C. Please provide a list of the names and titles of H-Wire Technology Solutions employees.
- a. Jon Hagen, Managing Member
 - b. Mat Morduck, Manager
 - c. David Hatch, Infrastructure Manager
 - d. Mike Mason, Project Manager
 - e. Kyle Thompson, Client Relations Manager
 - f. Alex Veater, IT Specialist
 - g. Jesse Singleton, IT Specialist
 - h. Tommy Miller, IT Specialist
 - i. Todd Parris, IT Specialist
 - j. Brayden Farley, IT Specialist
 - k. Luke Bullard, IT Specialist
 - l. Brayden Bird, IT Specialist
 - m. Kim Mott, IT Specialist
 - n. Siala Iputi, Special Projects
 - o. Kyle Bullock, IT Specialist
 - p. Elliott Cunningham, IT Specialist
 - q. Kyle Baker, IT Specialist
 - r. Troy Rashak, IT Specialist
- D. Please indicate if Lincoln Fillmore has a financial interest in H-Wire Technology Solutions, LLC.
- a. Lincoln Fillmore is a minority (silent) member of H-Wire, owning 11% of the member units. Lincoln receives no compensation for any services and provides no services to H-Wire. His only association is as a member of the LLC and receives a small (11%) portion of distributions.
- E. Please indicate if Lincoln Fillmore is compensated in any way by H-Wire Technology Solutions, LLC.
- a. Lincoln Fillmore is not employed by H-Wire. Lincoln receives no compensation for any services and provides no services to H-Wire. His only association is as a member of the LLC and receives a small (11%) portion of distributions.

Response Reminders

Please email or fax the requested information to my attention. If you have any questions or you do not understand what we are requesting, please feel free to contact me.

It is important that we receive all of the information requested **within 15 calendar days** so we can complete our review of your application(s). **Failure to send all of the information requested may result in a reduction or denial of funding. If you need additional time to prepare your response, please let me know as soon as possible.**

Should you wish to cancel your FCC Form 471 application(s), or any of your individual funding requests, please clearly indicate in your response that it is your intention to cancel an application or funding request(s). Include in any cancellation request the FCC Form 471 application number(s) and/or funding request number(s), and the complete name, title and signature of the authorized individual.

Thank you for your cooperation and continued support of the Universal Service Program.

Special Compliance Information Request

Page **3** of **4**

Response due: 7/26/2016

Sincerely,

Fabio Nieto

Special Compliance Case Management

Phone: 973-581-5045

Fax: 973-599-6552

E-mail: Fabio.Nieto@sl.universalservice.org

Special Compliance Information Request Certification


Schools and Libraries Division - Correspondence Unit
30 Lanidex Plaza West, PO Box 685, Parsippany, NJ 07054-0685
Visit us online at: www.usac.org/sl

Response due: 7/26/2016

Complete and return the enclosed Certification to the Schools and Libraries Division (SLD). If the applicant's authorized representative completed the information in this document, please *attach a copy of the letter of agency or other agreement* between the applicant and consultant authorizing them to act on the school or library's behalf.

Please note that if an authorized representative signs this form, an authorized school or library official is also required to sign in the space provided below.

Note: If a consultant was used, a school official **MUST** sign below.

CERTIFICATION	
<p>I certify that I am authorized to make the representations set forth in the responses to the inquiry on behalf of H-Wire Technology Solutions SPIN 143036050 the entity represented on and responding to the inquiry, and am the most knowledgeable person with regard to the information set forth therein. I certify that the responses and supporting documentation to the inquiry are true and correct to the best of my knowledge, information and belief. I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I acknowledge that false statements can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001 and civil violations of the False Claims Act.</p> <p>I declare under penalty of perjury that the foregoing is true and correct. Executed on <u>21</u> day of <u>July</u>, 2016 at <u>Draper</u> [city], <u>UT</u> [state].</p>	
Signature 	Date 21-JUL-16
Print Name Jon Hagen	Title Manager
Employer H-Wire	
Telephone Number 801-301-3468	Fax Number
Email Address jon@h-wire.com	
Address 12608 S 125 W STE C Draper UT 84020	
Authorized School or Library Official's Signature and Title	Date
Print Name of Authorized School or Library Official Named Above	

**Letter of Appeal**

Date: March 8, 2019

Applicant Name:
Endeavor Hall
BEN # 16065886

Service Provider:
H-Wire Technology Solutions
SPIN 143036050

Contact Person for Appeal:
Jonathan Hagen
Managing Partner
12068 S 125 W, Suite C
Draper, Utah 84020
jon@h-wire.com

USAC Action Being Appealed:

USAC Commitment Adjustment Letter (COMAD), dated January 11, 2019.

Funding Year	FCC Form 471	FRN	COMAD	Total Amount to Be Recovered	Party to Recover From
2015	1035346	2817422	\$51,443.66	\$51,443.66	Service Provider

Funding Commitment Adjustment Explanation:

“After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. Charter Solutions is determined to be associated with the service provider H-Wire Technology Solutions for the FRN(s). Specifically, the President of Charter Solutions, Lincoln Fillmore maintains a minority interest in H-Wire Technology Solutions. Additionally, Charter Solutions and H-Wire Technology Solutions are physically located in the same building. FCC rules require applicants to submit a FCC Form 470 to initiate the competitive bidding process and to conduct a fair and open process. Neither the applicant nor any individual or



organization working on the applicant's behalf should have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition or would furnish the service provider with "inside" information or allow it to unfairly compete in any way. Since H-Wire Technology Solutions has engaged in an improper relationship with Charter Solutions and its president, which represents a conflict of interest and compromises the competitive bidding process, the commitment has been rescinded in full and USAC will seek recovery of any improperly disbursed funds from the applicant and service provider.

After a thorough investigation, the applicant failed to produce at the request of the Administrator documentation pertaining to its competitive bidding process for FRN 2817422. FCC rules require schools and libraries as well as service providers to retain all documents related to the application for, receipt, and delivery of discounted telecommunications and other supported services for at least (ten) years after the last day of service delivered in a particular Funding Year and to produce such records upon a request of an auditor or other authorized representative. FCC rules further provide that a non-compliance with the FCC's record keeping and auditing rules by failure to retain records or to make available required documentation is a rule violation that warrants recovery of any disbursed funds for the time period for which the information/documentation is being sought. Since you failed to produce the above specified documentation upon request of an authorized representative/ an auditor, you violated program rules. FCC's rules require a fair and open competitive bidding process free from conflicts of interest. Under the Commission's rules, a service provider may not participate in the bidding process. The FCC's rules require the applicant to take the initiative and responsibility for determining its needs as set forth on an FCC Form 470 and/or a Request for Proposal. Since you failed to respond, we are unable to ensure you were program compliant. As a result, your funding commitment has been rescinded in full and USAC will seek recovery of the \$51,443.66 of improperly disbursed funds from the applicant."

RESPONSE

This COMAD states in one place that USAC will only seek recovery from the Service Provider and in another that it will seek recovery from the applicant and service provider.

I, Conflict of Interest Issue

This alleged and unsupported "conflict of interest" issue has been under "investigation" for more than two years and has resulted in two findings based on information provided by H-Wire Technology Solutions (H-Wire) in an e-mail response to Fabio Nieto of Solix, subcontractor to USAC, dated October 4, 2016. First, that Lincoln Fillmore, President of Charter Solutions has a minority interest in H-Wire. Second, Charter Solutions and H-Wire are physically located in the same building. In the Funding Commitment Adjustment Explanation above and attached hereto as Exhibit 1, USAC then broadly summarizes a portion of the requirements for conducting a fair and open competitive bidding process, including the requirement to submit a Form 470, the requirement to conduct a "fair and open" process, and the prohibition on relationships between the applicant and service provider that "would unfairly influence the outcome of a competition or would furnish the service provider with 'inside' information or allow it to unfairly compete in



any way.” In the COMAD, USAC makes a giant conclusory leap from those statements to find that “H-Wire Technology Solutions has engaged in an improper relationship with Charter Solutions and its president, which represents a conflict of interest and compromises the competitive bidding process.” Not only has USAC completely failed to allege any facts to support this finding (because none exist), but it has utterly disregarded ample evidence to the contrary provided to USAC by H-Wire over the past two years.

To reiterate, throughout the time period covered by this investigation, H-Wire and Charter Solutions have scrupulously maintained operational safeguards explicitly designed to maintain the integrity of the competitive bidding process undertaken by the Utah charter schools that have retained the services of Charter Solutions. H-Wire respects that USAC has a responsibility to protect taxpayer money against waste, fraud, and abuse. However, when USAC alleges a policy violation of a competitive bid rule, it also has the responsibility to conduct a fair and thorough investigation in a timely basis. Unfortunately, USAC did neither in this case.

In an undated letter from Fabio Nieto, received in September of 2018, Mr. Nieto states that it is USAC’s intent to deny this FRN, among others. On August 2, 2018, our legal counsel provided a response refuting the basis of the findings and providing a thorough explanation of the safeguards in place to prevent any violation of the E-rate competitive bidding rules. Unfortunately, USAC never provided a response or explained why it disagreed with the facts set forth in that letter. Instead, it issued this COMAD. Again, H-Wire submits this letter attached hereto as Exhibit 2 and made a part of our response herein that provides detail as to why no conflict of interest issue existed between H-Wire and Endeavor Hall.

In this case, H-Wire responded to Endeavor Hall’s FCC Form 470. H-Wire provided its bid response to the contact for Endeavor Hall, who was listed on the FCC Form 470.

Nor does the passive minority investment of Lincoln Fillmore in H-Wire bar the company from bidding to serve schools where Charter Solutions performs services unrelated to E-rate. Charter Solutions occupies space that is physically separate and independently secured from that occupied by H-Wire. Lincoln Fillmore, as a passive investor, provides no strategic input and exercises no control over H-Wire’s business decisions. He is not involved in the decision to bid or not to bid, or the terms on which to bid, to serve any school. Moreover, I do not discuss any E-rate matters with Lincoln Fillmore, nor does my staff.

II. Applicant Failed to Respond to USAC Information Request

H-Wire provides no response here. This finding is solely directed at the applicant.



H-Wire had absolutely no involvement other than stated above in the competitive bid process. Under the E-rate rules, it is solely the applicant's responsibility to conduct a fair and open competitive bid process. H-Wire has no window into that process through Charter Solutions or otherwise. USAC will have to turn to Endeavor Hall for such details.

For the foregoing reasons, USAC should reinstate the funding to Endeavor Hall.

Sincerely,

Sincerely,
A handwritten signature in dark ink, appearing to be 'Jon Hagen', written over a light blue rectangular background.

Jon Hagen, Managing Partner
H-Wire Technology Solutions



Exhibit 1

Commitment Adjustment Letter

Jonathan Hagen
H-Wire Technology Solutions
12608 S 125 W, Suite C
Draper, UT 84020

01/11/2019

Our review of your Schools and Libraries Universal Service Support Program (or E-rate) funding request has determined funds were committed in violation of Federal Communications Commission (FCC) rules. You have 60 days from the date of this letter to appeal the following decision(s). For more detailed information see below.

Total commitment adjustment: \$51,443.66

Total amount to be recovered: \$51,443.66

<i>FCC Form 471</i>	<i>FRN</i>	<i>Commitment adjustment</i>	<i>Total amount to be recovered</i>	<i>Explanation(s)</i>	<i>Party to recover from</i>
1035346	2817422	\$51,443.66	\$51,443.66	Comp. Bidding Violation; Comp Bidding- Conflict of Interest	Service Provider

See Attached Adjustment Report for more information on the specific FRNs and Explanations listed above.

Commitment Adjustment

FCC rules require the Universal Service Administrative Company (USAC) to rescind commitments and recover funding when it is determined that funding was committed and disbursed in violation of the rules. This letter notifies you that USAC will be adjusting your funding commitment(s) and provides information on how to appeal this decision.

This is NOT a bill. If disbursed funds need to be recovered, USAC will issue a Demand Payment Letter. The debt referenced in the Demand Payment Letter will be due within 30 days of that letter's date. Failure to pay the debt may result in interest, late payment fees, and administrative charges and will invoke the FCC's "Red Light Rule."

FCC's Red Light Rule

The FCC Red Light Rule requires USAC to dismiss pending FCC Form 471 applications, appeals, and invoices or to net disbursements offsetting the debt if the entity responsible for paying the outstanding debt owed to the FCC has not paid the debt or made satisfactory arrangements to pay the debt within 30 days of the Demand Payment Letter. For information on the Red Light Rule, see <https://www.fcc.gov/licensing-databases/fees/debt-collection-improvement-act-implementation>

To Appeal This Decision

If you wish to contest any part of this letter, you must first file an appeal with USAC to seek review of the decision. Parties that have filed an appeal with USAC and received an adverse decision may, if they choose, appeal USAC's decision to the FCC. Parties seeking a waiver of a codified FCC rule should file a request for waiver directly with the FCC because USAC cannot waive FCC rules. Your appeal to USAC or waiver request to the FCC must be filed within 60 days of the date of this letter.

All appeals filed with USAC must be filed in EPC by selecting "Appeal" from the menu in the top right hand corner of your landing page and providing the requested information.

Your appeal should include the following information. (Because you file the appeal through your EPC account, the system will automatically fill in some of these components for you).

- 1) Name, address, telephone number, and email address for the contact person for this appeal.
- 2) Indicate specifically that your letter is an appeal. Include the following to identify the USAC decision letter (e.g., Commitment Adjustment Letter) and the decision you are appealing:
 - a. Appellant name;
 - b. Applicant name and service provider name, if different from appellant;
 - c. Applicant BEN and Service Provider Identification Number (SPIN);
 - d. FCC Form 471 Application Number and the Funding Request Number (FRN) or Numbers as assigned by USAC;
 - e. "Commitment Adjustment Letter," AND the exact text or the decision that you are appealing.



3) Identify the problem and the reason for the appeal and explain precisely the relief sought. Please keep your appeal to the point, and provide supporting documentation. Be sure to keep a copy of your entire appeal, including any correspondence and documentation. A copy will automatically be saved for you in EPC. USAC will reply to your appeal submission to confirm receipt.

For more information on submitting an appeal to USAC including step by step instructions on how to file the appeal through EPC, please see "Appeals" in the Schools and Libraries section of the USAC website.

As mentioned, parties seeking a waiver of FCC rules or that have filed an appeal with USAC and received a decision may file a request for waiver or appeal USAC's decision to the FCC. Waiver requests or appeals to the FCC must be made within 60 days of the issuance of USAC's decision and include all of the information referenced above for appeals to USAC.

The FCC recommends filing appeals or waiver requests with the Electronic Comment Filing System (ECFS) to ensure timely filing. Electronic waiver requests or appeals will be considered filed on a business day if they are received at any time before 11:59 PM ET. If you have questions or comments about using the ECFS, please contact the FCC directly at (202) 418-0193.

For more information about submitting waiver requests or appeals to the FCC, including options to submit the waiver request or appeal via U.S. mail or hand delivery, visit the FCC's website.

Schools and Libraries Division

cc: Tracey Marz
ENDEAVOR HALL

Adjustment Report

FCC Form 471 Application Number: 1035346
Funding Request Number: 2817422
Commitment Adjustment: \$51,443.66
Total Amount to Be Recovered: \$51,443.66
Explanation(s): Comp. Bidding Violation; Comp Bidding- Conflict of Interest

Party to Recover From: Service Provider
Funding Year: 2015
Billed Entity Number: 16065886
Services Ordered: INTERNAL CONNECTIONS
Service Provider Name: H-Wire Technology Solutions
SPIN: 143036050
Original Funding Commitment: \$51,443.66
Adjusted Funding Commitment: \$0.00
Funds Disbursed to Date: \$51,443.66

Funding Commitment Adjustment Explanation

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. Charter Solutions, is determined to be associated with the service provider H-Wire Technology Solutions for the FRN. Specifically, the President of Charter Solutions, Lincoln Fillmore maintains a minority interest in H-Wire Technology Solutions. Additionally, Charter Solutions and H-Wire Technology Solutions are physically located in the same building. FCC rules require applicants to submit a FCC Form 470 to initiate the competitive bidding process and to conduct a fair and open process. Neither the applicant nor any individual or organization working on the applicants behalf should have a relationship with a service provider prior to the competitive bidding that would unfairly influence the outcome of a competition or would furnish the service provider with "inside" information or allow it to unfairly compete in any way. Since H-Wire Technology Solutions has engaged in an improper relationship with Charter Solutions and its president, which represents a conflict of interest and compromises the competitive bidding process, the commitment has been rescinded in full and USAC will seek recovery of any improperly disbursed funds from the service provider.

After a thorough investigation, the applicant failed to produce at the request of the Administrator documentation pertaining to its competitive bidding process for FRN 2817422. FCC rules require schools and libraries as well as service providers to retain all documents related to the application for, receipt, and delivery of discounted te



lecommunications and other supported services for at least (ten) years after the last day of service delivered in a particular Funding Year and to produce such records upon a request of an auditor or other authorized representative. FCC rules further provide that a non-compliance with the FCCs recordkeeping and auditing rules by failure to retain records or to make available required documentation is a rule violation that warrants recovery of any disbursed funds for the time period for which the information/documentation is being sought. Since you failed to produce the above specified documentation upon request of an authorized representative/ an auditor, you violated program rules. FCCs rules require a fair and open competitive bidding process free from conflicts of interest. Under the Commissions rules, a service provider may not participate in the bidding process. The FCCs rules require the applicant to take the initiative and responsibility for determining its needs as set forth on an FCC Form 470 and/or a Request for Proposal. Since you failed to respond, we are unable to ensure you were program compliant. As a result, your funding commitment has been rescinded in full and USAC will seek recovery of the \$51,443.66 of improperly disbursed funds from the applicant.

August 2, 2018

VIA EMAIL AND U.S. MAIL

Fabio Nieto
Special Compliance, Case Management
SCHOOLS AND LIBRARIES DIVISION – CORRESPONDENCE UNIT
30 Lanidex Plaza West
P.O. Box 685
Parsippany, NJ 07054
Fabio.nieto@sl.universalservice.org

Re: *H-Wire Technology Solutions*

Mr. Nieto:

Our firm has been retained to represent H-Wire Technology Solutions (“H-Wire”) with respect to your recent decision to deny or rescind FRNs for fiscal years 2015 to 2018 (the “Denial”). We write this letter to seek reconsideration, as well as to seek documentation or information in your possession, custody or control which you believe supports the Denial. We seek that evidence, if it exists, for purposes of a potential appeal that we hope will not be necessary.

The Denial appears to be entirely based on an alleged conflict of interest. Standing alone, a potential conflict of interest, appropriately addressed, cannot form a reasonable basis for the Denial. For example, USAC’s guidance (<https://www.usac.org/sl/applicants/beforeyoubegin/esa.aspx>) specifically allows for “potential conflicts” to be “resolved” by providing “functional separation” between roles. Such steps were taken here. Moreover, the Denial does not cite any rule, regulation, or guidance that H-Wire violated, because there has been no violation. If there is no violation, as H-Wire asserts, the Denial would be arbitrary and capricious.

As explained to you more than two years ago, while Mr. Fillmore does own a passive minority interest in H-Wire, functional separation was established between H-Wire and Charter Solutions. Specifically, Mr. Fillmore did not participate in any discussions, meetings, conversations, applications, or decisions regarding the School and Libraries Program (“SLP”) with any Charter Solutions client school. Further, he had no role in any part of the application process of any applicant of the SLP.

As further evidence of a functional separation, and also as previously explained, Mr. Fillmore has no role in H-Wire's operations in the SLP or any other aspect of H-Wire's operations. Further, he never consulted about, advised on, or participated in any proposal with any vendor, client, or recipient under the SLP. Even more specifically, he did not assist any client school of Charter Solutions with its competitive bidding process in SLP or any other program. He did not communicate with H-Wire prior to or during the selection process regarding any applicant to the SLP and had no involvement in the competitive bidding process for any applicant or vendor.

Mr. Fillmore does not receive any share of the revenue received from SLP. In addition, he has no involvement in the management, operations, or business activities of H-Wire.

All of this information was communicated to you formally, at your request. Mr. Fillmore is willing to provide a sworn statement reiterating that each of these representations is true. You have not disputed any of these facts, nor provided any evidence that places any of these facts in doubt.

In addition to his previous statements to you, Mr. Fillmore also would provide a sworn statement that the following facts also are true: (1) he did not assist any SLP applicant with its competitive bidding process or any other part of the SLP program in any way; (2) he participated in no meetings, conversations, or decisions, nor provided any assistance to any applicant or vendor under the SLP.

And while H-Wire and Charter Solutions are in the same building, there are no overlapping employees and no shared space. Again, this is a reflection of functional separation as well as physical separation. Moreover, and as also explained years ago and as reflected in the Service Agreement you cite in your Denial, Charter Solutions plays no role in the schools' technology, whatsoever, which includes purchasing technology. Simply put, the SLP program is not an included service in Charter Solutions-provided services to schools.

As further proof of functional separation, several of the schools you listed engaged a separate e-rate consultant to guide them through the process. These schools are the following:

- Excelsior Academy (in 2018)
- Utah Military Academy (in 2017)
- Providence Hall (in 2017)
- Athlos Academy of Utah (in 2017)
- Treeside Charter School (in 2017)
- Paradigm (in 2017 and 2016)
- American International (in 2016)

Respectfully, in addition to overlooking undisputed facts demonstrating functional separation, the Denial also contains numerous factual errors, including at least the following:

1. Salt Lake Arts Academy is not a client of Charter Solutions, a fact which we believe has been previously communicated to you by Salt Lake Arts Academy.
2. American International School of Utah was not a client of Charter Solutions until 2018, two years after the FRN in question.
3. Athlos Academy Jefferson Parish is not a client of Charter Solutions.
4. You have confused marketing material (*potential* services listed on a website) with actual services provided to schools.
5. The claim that Charter Solutions is “intimately involved” in procurement activities on behalf of clients is untrue. In fact, the only contractual evidence cited for this claim is that Charter Solutions “assists” its clients with procurement, which in fact means that the school explains the rules for purchasing under any program, helps school purchasing agents understand those rules, and then accounts for the purchases after the fact for purposes of reporting and financial compliance.

To say the least, H-Wire is deeply concerned about a Denial that purportedly resulted from “a thorough investigation,” where all facts listed in the Denial come from H-Wire or Charter Solutions directly and actually support H-Wire’s position.

The Denial also appears to overlook the fact that H-Wire serves only as a Service Provider, and not as a consultant or applicant.

The Denial also appears to overlook the fact that Mr. Fillmore played no role with any applicant in advising, consulting, or preparing any aspect of any applicant’s Form 470 or Form 471 or in vendor evaluation or selection for any school. Further, he had no role at H-Wire in submitting proposals under any Form 470. In short, he had no role in any aspect of the SLP process, either as a consultant, an applicant, or a service provider.

Appropriate supporting documentation has been provided to you for the facts asserted in this letter.

If the Denial is not reversed, it would be an arbitrary and capricious exercise of regulatory power for at least the following three reasons: (1) there is no evidence or even an assertion that H-Wire’s conduct violates any USAC rule or even guidance; (2) instead the facts demonstrate total functional separation consistent with USAC guidance and those facts are undisputed; and (3) all documentation supports H-Wire’s position that it has achieved functional separation. See *Tennekoon v. Fanning*, 156 F. Supp. 3d 208, 216 (D.D.C. 2016) (it is arbitrary and capricious not to address a party’s non-frivolous, material arguments);

Fabio Nieto
August 2, 2018
Page 4

To the extent you have received information in the form of documents or statements from others that would dispute any of the three reasons above, please provide that information.

Absent such additional information, which H-Wire does not believe exists, H-Wire respectfully requests that you reconsider the Denial.

Should you wish to discuss these matters, feel free to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to be 'JOH', with a large, stylized flourish extending from the end.

Jonathan O. Hafen

JOH:mtg

4840-5002-2767

EXHIBIT D

1. October 9, 2019 H-Wire's Request for Endeavor Hall and Appeal Letter

From: Hagen, Jon <jon@h-wire.com>
Sent: Wednesday, October 9, 2019 10:25 PM
To: Pamela Lloyd <Pamela.Lloyd@usac.org>
Subject: Appeal status

Hi Pamela,

We received the two attached demand letters in the mail errantly today.

We've appealed the COMAD (appeals attached) and have not heard back on their status.

It's a bit premature to demand payment when the appeal hasn't been addressed yet.

Can you help me figure out why these were sent and what the status is on the appeal?

Thank you in advance!



Jon Hagen
Founder, H-Wire

(801) 301-3468

2. October 14, 2019, USAC's Reply

On Mon, Oct 14, 2019 at 8:45 AM Yvie Mondenge <Yvie.Mondenge@usac.org> wrote:

Hello Mr Hagen,

Thank you for contacting USAC regarding the appeal for Endeavor Hall application 1035346.

USAC completed the review of the appeal and issued the appeal decision letter.

USAC's recovery action resumed after the appeal decision was issued.

Please contact me if you have any questions. You may contact me at Yvie.Mondenge@usac.org or 202-423-2655.

Thank you

Yvie

This email and any files transmitted with it are confidential and intended solely for the use of the individual(s) to whom they are addressed. This message and any subsequent messages in this e-mail chain may contain confidential or otherwise sensitive information and is intended only for the individual(s) named. If you have received this email in error you should not disseminate, distribute or copy this e-mail. Please notify the sender immediately by e-mail. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited. [Disclaimer posted by USAC]

3. October 14, 2019 H-Wire's 2nd Request for USAC Denial Letters

From: "Hagen, Jon" <jon@h-wire.com>
Date: Monday, October 14, 2019 at 10:48 AM
To: Yvie Mondenge <Yvie.Mondenge@usac.org>
Cc: Pamela Lloyd <Pamela.Lloyd@usac.org>
Subject: Re: Appeal status

Thank you for responding. Can you send us a copy of the appeal denial letter?

We never received a copy via email or USPS mail.



Jon Hagen
Founder, H-Wire
(801) 301-3468

4. October 15, 2019 H-Wire's 3rd Request for USAC Denial Letters

From: "Hagen, Jon" <jon@h-wire.com>
Date: Tuesday, October 15, 2019 at 2:05 PM
To: Yvie Mondenge <Yvie.Mondenge@usac.org>
Cc: Pamela Lloyd <Pamela.Lloyd@usac.org>
Subject: Re: Appeal status

Thank you for the update.

We never received copies of the denial letters. Will you please send us a copy?

1. Endeavor Hall - 1035346
2. Lakeview Academy - 1023764

Thank you.



Jon Hagen
Founder, H-Wire
(801) 301-3468

5. October 22, 2019 H-Wire's 4th Request for USAC Denial Letters

From: "Hagen, Jon" <jon@h-wire.com>
Date: Tuesday, October 22, 2019 at 3:05 PM
To: Yvie Mondenge <Yvie.Mondenge@usac.org>
Cc: Pamela Lloyd <Pamela.Lloyd@usac.org>
Subject: Re: Appeal status

Can you please send the appeal denial letters to us for both of these appeals?

Jon Hagen

6. November 8, 2019 H-Wire's 5th Request for USAC Denial Letters

From: Cynthia Schultz <cschultz@broadbandlawgroup.com>
Sent: Friday, November 8, 2019 11:50 AM
To: Cyndi Beach <Cyndi.Beach@usac.org>
Subject: Request for Assistance on USAC Appeals Never Received: Endeavor Hall and Lakeview

Cyndi,

I am hoping that you can assist in this matter. It has been one month since the service provider reached out to USAC requesting information on two FRNs that were appealed to USAC, service provider never received a decision on the appeals from USAC, but Demand Payment Letters were sent. They are as follows:

1. 2015 - Endeavor Hall - FRN 2817422 - \$51,443.66
2. 2015 - Lakeview Academy - FRN 2779814 - \$53,520.23

All of the requests, along with the appeals to USAC are in the attached e-mails that span the month of October.

These appeals were timely filed with USAC. From the USAC responses and issuance of the two Demand Payment Letters, it would appear that USAC made a decision on the appeal, but no appeal decisions were sent to the service provider. H-Wire has been requesting copies since 10/9/19. It is important to receive copies of these appeals, and I am not sure why it is taking so long. It is difficult to appeal to the FCC without ever having received the denial.

Can you please assist here or point me in the direction of someone who can.

Thanks so much.

Best,

Cynthia

7. November 8, 2019 USAC's Response

From: Cyndi Beach <Cyndi.Beach@usac.org>
Date: Friday, November 8, 2019 at 12:26 PM
To: Cynthia Schultz <cschultz@broadbandlawgroup.com>
Cc: Yvie Mondenge <Yvie.Mondenge@usac.org>
Subject: RE: Request for Assistance on USAC Appeals Never Received: Endeavor Hall and Lakeview

Cynthia
I do not handle Appeals. If Demand Payment Letters were issued that would mean that the Appeals were Denied.
I'm copying Yvie on this email as she handles appeals and can assist you with obtaining the Appeal Letters.
Regards,

Cyndi

8. November 11, 2019 USAC's Response

From: Yvie Mondenge <Yvie.Mondenge@usac.org>
Date: Monday, November 11, 2019 at 3:15 PM
To: Cynthia Schultz <cschultz@broadbandlawgroup.com>
Cc: Cyndi Beach <Cyndi.Beach@usac.org>
Subject: RE: Request for Assistance on USAC Appeals Never Received: Endeavor Hall and Lakeview

Hello Ms. Schultz,

Thank you for contacting USAC regarding the appeals for Endeavor Hall application 1035346 and Lakeview Academy application 1023764.

USAC completed the review of the appeals and issued the appeal decision letters.

USAC's recovery action resumed after the appeal decisions were issued.

Please contact me if you have any questions.

Thank you
Yvie

9. November 12, 2019 H-Wire's E-mail Confirming Wrong Address

From: "Hagen, Jon" <jon@h-wire.com>
Date: Tuesday, November 12, 2019 at 1:44 PM
To: Yvie Mondenge <Yvie.Mondenge@usac.org>, Cynthia Schultz <cschultz@broadbandlawgroup.com>
Subject: Denial letters

Yvie,

Thank you for calling yesterday, this is to confirm that you are going to send me, via email the appeal denial letters for Endeavor Hall and Lakeview Academy because we never received them.

The reason we never received them, as you stated, was that our address on the denial letter was incorrect.

Our correct address is 12608 s 125 w STE C Draper UT 84020.

Jon Hagen

10. November 13, 2019 USAC Sends Denial Letters by E-mail to H-Wire

From: Yvie Mondenge <Yvie.Mondenge@usac.org>
Date: Wed, Nov 13, 2019, 1:29 PM
Subject: RE: Appeal status
To: Hagen, Jon <jon@h-wire.com>
Cc: Pamela Lloyd <Pamela.Lloyd@usac.org>

Hello Mr Hagen,

Thank you for contacting USAC regarding the appeals for Endeavor Hall application 1035346 and Lakeview Academy application 1023764.

The appeal decision letters were mailed to the address referenced in your appeal letters to USAC.

We are providing you with a copy of the appeal decision letters for your reference.

Thank you

Yvie

EXHIBIT E

----- Forwarded message -----

From: **Samuel Clark** <Samuel.Clark@usac.org>

Date: Thu, Nov 21, 2019, 1:42 PM

Subject: RE: Disbursement research

To: Hagen, Jon <jon@h-wire.com>

[This is the only thing that I could find with this FRN, dollar amount and SPIN.](#)

SPIN	Service Provider Name	TRS Code	FRN	LINE AMOUNT	CHECK AMOUNT	ACH IND	DATE	FUND YEAR	BEAR	DISBURSEMENT TEXT
143036050	H-Wire Technology Solutions		2817422	\$0.00	\$0.00	Y	3/31/2016	062016	Y	Applicant Name:ENDEAVOR HALL;SLD Invoice Number:2361863;BEAR Letter Date:03/31/2016;Line Item Detail Number:7887369;Amount Requested:51443.66;No response from applicant;278;

471 NO	BEN	APPLICANT NAME	CYCLE NO
1035346	16065886	ENDEAVOR HALL	

Thank you,

Sam Clark

Lead Customer Analyst | Finance

USAC

(888) 641-8722 opt. 3

Samuel.Clark@usac.org | www.usac.org